

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DARRYL THOMAS,

Plaintiff,

-v-

No. 16 CV 9247-LTS-KHP

COMMISSIONER OF SOCIAL SECURITY,

Defendant.

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ORDER ADOPTING REPORT AND RECOMMENDATION

On June 22, 2017, Magistrate Judge Katherine H. Parker issued a Report and Recommendation (docket entry no. 20 (the “Report”)) recommending that Defendant’s motion to dismiss pro se Plaintiff Darryl Thomas’ Complaint, which seeks judicial review of a decision of Defendant the Commissioner of Social Security granting Plaintiff’s application for Supplemental Security Income be granted. Plaintiff has submitted a written objection. (Docket entry no. 21.) The Court has reviewed carefully the Report and Plaintiff’s objections thereto, and for the following reasons, adopts Judge Parker’s Report in its entirety.

In reviewing a report and recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). The court must make a de novo determination insofar as a party makes specific objections to a magistrate’s findings. United States v. Male Juvenile, 121 F.3d 34, 38 (2d Cir. 1997). If, however, the objecting party makes only conclusory or general objections, or simply attempts to re-litigate his original arguments, the Court will review the Report strictly for clear error. See Pearson-Fraser v. Bell Atl., No. 01 CV 2343, 2003 WL 43367, at *1 (S.D.N.Y. Jan. 6, 2003). Moreover, a party may not raise new arguments in an objection to a report and

recommendation absent a “compelling justification for failure to present such evidence to the magistrate judge.” Berbick v. Precinct 42, 977 F. Supp. 2d 268, 273 (S.D.N.Y. 2013).

Here, Plaintiff’s objections merely reiterate one argument that was previously presented to Judge Parker, and accordingly the clear error standard of review applies here. Insofar as Plaintiff relies on new evidence in support of this argument, Plaintiff has made no showing that he was unable to present this evidence to Judge Parker in a timely fashion, and accordingly the Court will not consider that evidence on review of the Report.

The Court has reviewed carefully Judge Parker’s thorough and well-reasoned Report and Recommendation and finds no clear error. The Court therefore overrules the objection and adopts the Report in its entirety for the reasons stated therein. Accordingly, Defendant’s motion to dismiss is granted.

The Court certifies pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from this order would not be taken in good faith. See Coppedge v. United States, 369 U.S. 438, 444 (1962). This Order resolves docket entry no. 11. The Clerk of Court is requested to close this case.

SO ORDERED.

Dated: New York, New York
August 11, 2017

/s/ Laura Taylor Swain
LAURA TAYLOR SWAIN
United States District Judge

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